

**BEFORE THE
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS,
AND GEOLOGISTS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for Reinstatement of Revoked

License of:

DAVID HAL PLATT, Petitioner

Agency Case No. 1178-A

OAH No. 2020090278

DECISION

A quorum of the Board for Professional Engineers, Land Surveyors, and Geologists (Board) heard this matter telephonically on October 16, 2020. Sean Gavin, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), presided.

Amie Flynn, Deputy Attorney General, represented the Attorney General pursuant to Business and Professions Code section 6780, subdivision (b).

David Hal Platt (petitioner) was present and represented himself.

Evidence was received, the record was closed, and the matter was submitted for decision on October 16, 2020.

FACTUAL FINDINGS

History of Licensure and Discipline

1. On September 2, 2005, the Board issued civil engineer License No. C 68987 to petitioner (license). The license was active until the Board revoked it effective January 18, 2019.

2. On September 11, 2018, Richard B. Moore, PLS, Executive Officer of the Board, filed an Accusation against petitioner. The Accusation alleged cause to discipline petitioner's license based on his professional license discipline in another state. Specifically, petitioner held a professional engineer license in Utah (Utah license) from the Utah Professional Engineers and Professional Land Surveyors Licensing Board (Utah Board). Effective March 14, 2017, the Utah Board suspended petitioner's Utah license for two years, subject to terms and conditions, and placed him on probation for an additional year after the expiration of the suspension, subject to the same terms and conditions. The Utah license discipline was based on allegations of "a pattern of negligence by general sloppiness, references to outdated codes and standards, and failing to update information or calculations."

3. The Board served the Accusation on petitioner's address of record. Petitioner did not file a Notice of Defense. As a result, the Board revoked petitioner's license, by Default Decision and Order, effective January 18, 2019. The Order provided that petitioner could petition to reinstate his license after one year. The Order did not require petitioner to pay any costs to the Board.

Petition for Reinstatement

4. On May 2, 2020, petitioner submitted to the Board a Petition for Reinstatement of Revoked License, along with supporting documentation (petition).

Petitioner's Evidence

5. In 2015, petitioner "went through some personal issues related to [his] family lasting roughly two years." In that time, his younger brother and nephew died by suicide, his older brother died from a heart attack, and two close friends and his wife's grandparents died from illness. As a result of these events, petitioner "went through a depression, and failed to adequately review the work produced by [his] office related to a handful of projects in Utah." He approved incomplete plans.

6. Initially, petitioner complied with the terms of his Utah license suspension. The month of his brother's suicide, he submitted a late report to the Utah Board. This caused "a downward spiral that resulted in the revocation of [his] license." As of the date of the hearing, his Utah license was not reinstated.

7. After the Utah Board revoked his Utah license, petitioner began to work as a project manager for Ward Engineering Group in Utah. He works as an independent contractor and his workload includes projects in Utah and in California. He travels to California approximately every other week. He does not stamp plans, and his direct manager and a coworker review his work. He has "come to value rigorous reviews performed by [his] coworkers and ha[s] been more diligent in paying attention to detail prior to submitting drawings." He did not submit letters of support from any supervisors or coworkers.

8. Petitioner submitted certificates of completion for 30 hours of continuing education (CE) courses through RedVector, an online CE vendor. He did not submit evidence that RedVector is an accredited provider of CE courses in California. On March 25, 2020, petitioner completed a total of six CE hours on courses covering "Green Building with Steel" and "Design of Reinforced Concrete Using the ACI Code." On March 26, 2020, he completed a total of 24 CE hours on courses covering "Reinforced Masonry Design," "Unreinforced Masonry Design," "ADA Guidelines," "Designing Foundation Repairs," "Developing 3D Engineered Construction Models," "Designing Permanent Erosion and Sediment Control

Systems," "Land Development Projects," "Transmission and Distribution: Framing Specifications and Basic Construction Diagrams," "Anatomy of Construction Defects," "Construction Project Documentation: Navigating Pitfalls," "Seismic Diaphragm Demands," "Pier and Beam Foundation Design," "Reinforced Concrete Tilt-Up Panels," "Advancements in Concrete," and "Design of Reinforced Concrete Using the ACI Code." He completed the CE courses in the weeks prior to March 25, 2020, but did not take the tests or receive the certificates of completion until March 25 and 26, 2020.

9. Petitioner acknowledged that his depression caused him to perform his licensed work negligently. He now recognizes the symptoms of his depression include difficulty focusing, lethargy, feeling overly tired, and trouble sleeping. He did not seek help from a mental health professional at the time because another family member did and disliked the process. He regrets not seeking such help personally. In summer 2020, he began working with a life coach. His license discipline has "humbled [him] and reminded [him] the importance of a good supporting company and proper internal reviews prior to issuing stamped plans." It has also "taught [him] that [he] can overcome any personal tragedies that may arise and that it is ok to take some time away from business when dealing with personal issues."

10. Petitioner believes he benefits from working with a larger firm that has "more robust quality control," and he plans to remain at Ward Engineering or a similarly sized firm if relicensed. He is unsure what exact steps he must take to reinstate his Utah license, but he views reinstating his California license as "more pressing" because he would use it more.

Analysis

11. When considering a petition for reinstatement of a revoked license, the Board evaluates criteria such as: educational courses completed after the revocation; professional engineering work done under the responsible charge of a licensee in good standing or under the direction of a person legally authorized to practice; actual or potential harm to the public, clients, employers, and/or employees caused by the actions that led to the revocation

or that could be caused by the reinstatement of the license; the nature and severity of the underlying acts; the time that has elapsed since commission of the underlying acts; recognition by the petitioner of his own actions and/or behavior that led to the revocation; and correction of the petitioner's action and/or behavior that led to the revocation. (Cal. Code Regs., tit. 16, § 418, subd. (c).)

12. Petitioner's license was revoked based on the suspension of his Utah license. The Utah Board subsequently revoked petitioner's Utah license because he did not comply with the terms and conditions of his suspension and/or probation. After his revocation, he remained committed to the profession and began to work as a project manager at a local engineering firm. In that role, licensed engineers regularly review his work, and he has come to value the benefits of such review. He has also continued to take CE courses.

13. In addition, petitioner recognized and took responsibility for his actions and behavior that led to his license revocation. He acknowledged events in his personal life influenced the quality of his work and he has taken steps to avoid similar problems in the future. These steps include working for a larger firm with a formal review process, working with a life coach to understand and manage his emotions, and accepting that it is better to take time off during stressful periods.

14. Public protection is the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions, and it is paramount to all other interests. (Bus. & Prof. Code § 6710.1.) When all the evidence and rehabilitation factors are considered, Petitioner met his burden to prove it would be consistent with the public health, safety and welfare to reinstate his civil engineering license. However, given that his California license discipline was based on discipline of his Utah license, and that his Utah license is not yet reinstated, it is appropriate to include as a condition to reinstatement that Petitioner shall first successfully obtain reinstatement of his Utah license as a condition precedent to the reinstatement of his California license.

LEGAL CONCLUSIONS

1. A civil engineer whose license has been revoked may petition the Board to reinstate the license. (Bus. & Prof. Code, § 6780, subd. (a).) The Board may grant or deny the petition or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement. (Bus. & Prof. Code, § 6780, subd. (d).) “The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he . . . is entitled to the relief sought in the petition.” (Bus. & Prof. Code, § 6780, subd. (b).)

2. When all the evidence is considered, Petitioner established that it would be consistent with the public health, safety and welfare to grant his petition for reinstatement of his license. However, because his Utah license is not yet reinstated, as a condition precedent to Petitioner’s reinstatement in California, Petitioner shall first submit evidence to the satisfaction of the Board that his professional license in Utah has been reinstated.

ORDER

The Petition for Reinstatement of David Hal Platt is GRANTED.

Condition Precedent to Practice – Reinstatement of Utah License

Petitioner, David Hal Platt, having submitted for this Board’s consideration his Petition for Reinstatement of his Civil Engineer License Number C 68987, and the Board having taken and considered evidence and testimony in deliberation thereof, hereby grants Petitioner’s Petition for Reinstatement subject to the condition precedent that Petitioner first submit evidence demonstrating to the satisfaction of the Board that Petitioner has successfully obtained reinstatement of his professional engineer’s license in the state of Utah (“Express Condition”). Though the Petition for Reinstatement is granted, the Order reinstating Petitioner’s Civil Engineer License Number C 68987 shall not be entered and shall not be

effective unless and until Petitioner provides to the Board satisfactory evidence that the Express Condition has been satisfied. This Express Condition is without regard to whether or not the reinstatement of Petitioner's Utah license includes probationary terms.

This Decision shall become effective on March 11, 2021.

IT IS SO ORDERED October 16, 2020.

Original Signed

BOARD FOR PROFESSIONAL ENGINEERS,
LAND SURVEYORS, AND GEOLOGISTS
Department of Consumer Affairs
State of California

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5 **BEFORE THE**
6 **BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND**
7 **GEOLOGISTS**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 1178-A

11 **DAVID HAL PLATT**
12 **8661 Pebble Crest Way**
13 **West Jordan, UT 84081**

DEFAULT DECISION AND ORDER

14 **Civil Engineer License No. C 68987**

[Gov. Code, §11520]

15 Respondent.

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17 FINDINGS OF FACT

18 1. On or about September 11, 2018, Complainant Richard B. Moore, PLS, in his official
19 capacity as the Executive Officer of the Board for Professional Engineers, Land Surveyors, and
20 Geologists ("Board"), Department of Consumer Affairs, filed Accusation No. 1178-A against
21 David Hal Platt ("Respondent") before the Board. (Accusation attached as Exhibit A.)

22 2. On or about September 2, 2005, the Board issued Civil Engineer No. C 68987 to
23 Respondent. The Civil Engineer License was in full force and effect at all times relevant to the
24 charges brought in Accusation No. 1178-A and will expire on December 31, 2019, unless
25 renewed.

26 3. On or about September 14, 2018, Respondent was served by Certified and First Class
27 Mail copies of the Accusation No. 1178-A, Statement to Respondent, Notice of Defense, Request
28

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 136, is required to be reported and maintained with the Board. Respondent's address of
4 record was and is: 8661 Pebble Crest Way, West Jordan, UT 84081.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505(c) and/or Business and Professions Code section 124.

7 5. Government Code section 11506(c) states, in pertinent part:

8 (c) The respondent shall be entitled to a hearing on the merits if the respondent
9 files a notice of defense . . . and the notice shall be deemed a specific denial of all
10 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
11 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
12 discretion may nevertheless grant a hearing.

13 6. The Board takes official notice of its records and the fact that Respondent failed to
14 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore
15 waived his right to a hearing on the merits of Accusation No. 1178-A.

16 7. California Government Code section 11520(a) states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense . . . or to appear at
18 the hearing, the agency may take action based upon the respondent's express
19 admissions or upon other evidence and affidavits may be used as evidence without
20 any notice to respondent

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 1178-A, finds
26 that the charges and allegations in Accusation No. 1178-A, are separately and severally, found to
27 be true and correct by clear and convincing evidence.

28 9. The Board finds that the actual costs for Investigation and Enforcement are \$1,692.50 as of
October 18, 2018.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent David Hal Platt has subjected his
3 Civil Engineer License No. C 68987 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board for Professional Engineers, Land Surveyors, and Geologists is authorized
6 to revoke Respondent's Civil Engineer License based upon the following violations alleged in the
7 Accusation which are supported by the evidence contained in the Default Decision Evidence
8 Packet in this case:

9 a. Respondent is subject to disciplinary action under Code section 141 in that on or
10 about March 14, 2017, Respondent was disciplined by another state's licensing agency for acts
11 which would constitute disciplinary action under California law. The circumstances are as
12 follows:

13 b. On or about March 14, 2017, in the disciplinary action entitled "In the matter of the
14 license of David Hal Platt", Case No. DOPL-2016-125, the State of Utah Director of the Division
15 of Occupational and Professional Licensing ("Division"), Department of Commerce, entered into
16 an Order adopting the findings of fact, conclusions of law and recommended order of the Utah
17 Professional Engineers and Professional Land Surveyors Licensing Board ("Board"). The Order
18 suspended Respondent's Utah professional engineer license for a period of two years, subject to
19 terms and conditions. The Order also prohibited Respondent from stamping any plans in Utah
20 during the period of suspension. Upon the expiration of the suspension set forth in the Order,
21 Respondent's Utah professional engineer license will be on probation for an additional year,
22 subject to the same terms and conditions. The findings of fact and conclusions of law for the
23 March 14, 2017, Utah discipline are as follows:

24 i. On or about October 29, 2013, Respondent voluntarily entered into a
25 Stipulation and Order with the Utah Division in DOPL Case No. 2013-482, wherein
26 Respondent surrendered his Utah license to practice as a structural engineer. Respondent's
27 Utah professional engineer license was reinstated when Respondent surrendered his
28 structural engineer license.

1 ii. After Respondent entered into the Utah Stipulation and Order on October 29
2 2013, the Utah Division received new complaints regarding Respondent. On or about
3 March 4, 2015, Respondent voluntarily entered into a Stipulation and Order with the Utah
4 Division in Case No. 2015-168 wherein Respondent's Utah license to practice as a
5 Professional Engineer was placed on probation for a period of five years

6 iii. Subsequent to the Utah 2015 Stipulation and Order, Respondent prepared and
7 submitted to the appropriate Utah municipalities plans for the R. residential addition and B.
8 Grill. After a hearing before the Utah Board in November 2016 and January 2017, the
9 Board found that the plans prepared by Respondent for the R. residence and B. Grill were
10 deficient, the work done by Respondent reflected a pattern of negligence by general
11 sloppiness, references to outdated codes and standards, and failing to update information or
12 calculations, and that Respondent engaged in acts constituting unprofessional conduct
13 (negligence). These factual findings and conclusions of law were adopted by the Utah
14 Director of the Division on March 14, 2017.

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1 **ORDER**

2 IT IS SO ORDERED that Civil Engineer License, No. C 68987, heretofore issued to
3 Respondent David Hal Platt, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5 written notice requesting that the Decision be vacated and stating the grounds relied on within
6 seven (7) days after service of the Decision on the Respondent. The agency in its discretion may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 Pursuant to Business and Professions Code section 6780, Respondent may petition for
9 reinstatement of the revoked license not less than one (1) year from the effective date of this
10 decision.

11 This Decision shall become effective on January 18, 2019

12 IT IS SO ORDERED December 13, 2018.

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14 *Original Signed*

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16 FOR THE BOARD FOR PROFESSIONAL
17 ENGINEERS, LAND SURVEYORS, AND
18 GEOLOGISTS
19 STATE OF CALIFORNIA
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Exhibit A

Accusation No. 1178-A

(DAVID H. PLATT)

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-6112
Facsimile: (916) 327-8643
7 E-mail: Stephanie.AlamoLatif@doj.ca.gov
Attorneys for Complainant
8

9 **BEFORE THE**
BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND
10 **GEOLOGISTS**
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A C C U S A T I O N

17 **Civil Engineer License No. C 68987**

18 Respondent.
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21 Richard B. Moore, PLS (“Complainant”) alleges:

22 **PARTIES**

23 1. Complainant brings this Accusation solely in his official capacity as the Executive
24 Officer of the Board for Professional Engineers, Land Surveyors, and Geologists (“Board”),
25 Department of Consumer Affairs.

26 2. On or about September 2, 2005, the Board issued Civil Engineer License Number C
27 68987 to David Hal Platt (“Respondent”). The Civil Engineer License was in full force and effect
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1 at all times relevant to the charges brought herein and will expire on December 31, 2019, unless
2 renewed.

3 **JURISDICTION**

4 3. This Accusation is brought before the Board under the authority of the following
5 laws. All section references are to the Business and Professions Code unless otherwise indicated.

6 4. Code section 118 states, in pertinent part:

7 ...

8 “(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
9 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
10 order of a court of law, or its surrender without the written consent of the board, shall not, during
11 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
12 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
13 provided by law or to enter an order suspending or revoking the license or otherwise taking
14 disciplinary action against the licensee on any such ground.”

15 ...

16 **STATUTORY PROVISIONS**

17 5. Code section 141 states, in pertinent part:

18 “(a) For any licensee holding a license issued by a board under the jurisdiction of the
19 department, a disciplinary action taken by another state, by any agency of the federal government,
20 or by another country for any act substantially related to the practice regulated by the California
21 license, may be a ground for disciplinary action by the respective state licensing board. A
22 certified copy of the record of the disciplinary action taken against the licensee by another state,
23 an agency of the federal government, or another country shall be conclusive evidence of the
24 events related therein.”

25 ...

26 6. Code section 6775 states, in pertinent part:

27 The board may, upon its own initiative or upon the receipt of a complaint, investigate the
28 actions of any professional engineer licensed under this chapter and make findings thereon.

1 By a majority vote, the board may publicly reprove, suspend for a period not to exceed two
2 years, or revoke the certificate of any professional engineer licensed under this chapter on any of
3 the following grounds:

4 ...

5 (c) Any negligence or incompetence in his or her practice.

6 ...

7 **COST RECOVERY**

8 7. Code section 125.3 provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
12 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
13 included in a stipulated settlement.

14 **CAUSE FOR DISCIPLINE**

15 **(Discipline by Another State)**

16 8. Respondent is subject to disciplinary action under Code section 141 in that on or
17 about March 14, 2017, Respondent was disciplined by another state's licensing agency for acts
18 which would constitute disciplinary action under California law. The circumstances are as
19 follows:

20 9. On or about March 14, 2017, in the disciplinary action entitled "In the matter of the
21 license of David H. Platt", Case No. DOPL-2016-125, the State of Utah Director of the Division
22 of Occupational and Professional Licensing ("Division"), Department of Commerce, entered into
23 an Order adopting the findings of fact, conclusions of law and recommended order of the Utah
24 Professional Engineers and Professional Land Surveyors Licensing Board ("Board"). The Order
25 suspended Respondent's Utah professional engineer license for a period of two years, subject to
26 terms and conditions. The Order also prohibited Respondent from stamping any plans in Utah
27 during the period of suspension. Upon the expiration of the suspension set forth in the Order,
28 Respondent's Utah professional engineer license will be on probation for an additional year,

1 subject to the same terms and conditions. The findings of fact and conclusions of law for the
2 March 14, 2017, Utah discipline are as follows:

3 a. On or about October 29, 2013, Respondent voluntarily entered into a
4 Stipulation and Order with the Utah Division in DOPL Case No. 2013-482, wherein Respondent
5 surrendered his Utah license to practice as a structural engineer. Respondent's Utah professional
6 engineer license was reinstated when Respondent surrendered his structural engineer license.

7 b. After Respondent entered into the Utah Stipulation and Order on October 29
8 2013, the Utah Division received new complaints regarding Respondent. On or about March 4,
9 2015, Respondent voluntarily entered into a Stipulation and Order with the Utah Division in Case
10 No. 2015-168 wherein Respondent's Utah license to practice as a Professional Engineer was
11 placed on probation for a period of five years.

12 c. Subsequent to the Utah 2015 Stipulation and Order, Respondent prepared and
13 submitted to the appropriate Utah municipalities plans for the R. residential addition and B. Grill.
14 After a hearing before the Utah Board in November 2016 and January 2017, the Board found that
15 the plans prepared by Respondent for the R. residence and B. Grill were deficient, the work done
16 by Respondent reflected a pattern of negligence by general sloppiness, references to outdated
17 codes and standards, and failing to update information or calculations, and that Respondent
18 engaged in acts constituting unprofessional conduct (negligence). These factual findings and
19 conclusions of law were adopted by the Utah Director of the Division on March 14, 2017, as set
20 forth more fully above in paragraph 9.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board for Professional Engineers, Land Surveyors, and
24 Geologists issue a decision:

25 1. Revoking or suspending Civil Engineer License Number C 68987, issued to David
26 Hal Platt;

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1 2. Ordering David Hal Platt to pay the Board for Professional Engineers, Land
2 Surveyors, and Geologists the reasonable costs of the investigation and enforcement of this case,
3 pursuant to Business and Professions Code section 125.3; and,

4 3. Taking such other and further action as deemed necessary and proper.

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DATED: 9/11/18

Original Signed

RICHARD B. MOORE, PLS
Executive Officer
Board for Professional Engineers, Land Surveyors,
and Geologists
Department of Consumer Affairs
State of California
Complainant

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